

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claims remain under examination in the application, is presented, with an appropriate defined status identifier.

Claims 71-88 are currently being amended. No claims have been added or cancelled. Accordingly, claims 71-88 remain pending in the present application.

35 U.S.C. §112

In Section 4 of the Office Action, the Examiner rejected claim 71 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention based on the use of the term “anonymous mode.” Claims 71, 77 and 83 have been amended to remove the term anonymous mode and describe the modes with reference to a first mode and a second mode. Reconsideration and withdrawal of the rejection of claim 71 under 35 U.S.C. §112 is respectfully requested.

In Section 5 of the Office Action, the Examiner also rejected claims 73 and 79 as being indefinite. Claims 73 and 79 have been amended to recite “wherein the Web portal in the second mode allows the user to flag patient-sourced data wherein the flagged data is accessible by the healthcare provider.” Reconsideration and withdrawal of the

rejection of claims 73 and 79 under 35 U.S.C. §112 is respectfully requested.

In Section 6 of the Office Action, the Examiner rejected claim 71 for failing to provide antecedent basis for “the patient.” Claim 71 has been amended to provide proper antecedent basis. Reconsideration and withdrawal of the rejection of claim 71 under 35 U.S.C. §112 is respectfully requested.

#### Claim Rejections – 35 USC §103

In Section 8 of the Office Action, the Examiner rejected claims 71-88 under 35 USC §103(a) as being unpatentable over U.S. Patent No. 6,988,075 to Hacker (hereinafter “Hacker”) in view of U.S. Patent Publication No. 2002/0065682 to Goldenberg (hereinafter “Goldenberg”) and further in view of U.S. Patent Publication No. 2001/0041991 to Segal (hereinafter “Segal”). Applicants disagree with the Examiner’s interpretation of the prior art and have amended the claims to clarify the differences.

#### Claims 71 and 77

Claims 71 and 77, as amended, recite two health record databases: an electronic medical record database created and maintained by a healthcare provider and a personal health record database holding data entered by a patient. A single web portal is configured to control access to both databases for the patient. In a first mode, only the personal health record database is accessible. In the second mode, the patient has been verified as a patient and the user name and password of the patient have been associated

with their clinical medical record. Accordingly, both databases are accessible, although access to the clinical medical record database is read only for the user. As recited in these claims, the user cannot modify the clinical medical record. Claims 71, 77 and 83 have been amended to clarify that the healthcare providers have write access to the clinical medical record and the patient does not have write access to the clinical medical record.

An electronic medical record is an official medical record that is created and maintained by a healthcare provider. The electronic medical record includes clinical data created and maintained by the healthcare providers including patient medical records, test results, patient charts, nurses' notes, x-ray films, etc. It is important for the integrity of the clinical medical record that the patient is not allowed to modify the data in the clinical record. To clarify that the electronic medical record database is the official medical record database and not a user created repository, claims 71 and 77 recite that, even in the registered mode, the user is only provided with read-only access to the medical record.

Although access to medical records is desirable, patients that are not currently patients of the healthcare provider may desire to establish a medical record with the provider without being fully identified. Not being fully identified means that the user may still provide a user id and password, but this information is not authenticated through an access of the healthcare provider's records. A patient seeking unauthenticated access may have a temporarily lapse in insurance coverage, may be switching from another healthcare provider, etc. but still desire to maintain some records with a healthcare provider that can later be integrated into the official medical record. As described in the

art cited by the Examiner, a patient may upload records received from a health provider, however, these records are not clinical medical records since the patient has write access to these records. The ability of a patient to modify a record (including by uploading write protected data files) disqualifies the record from being a clinical medical record.

#### Cited Prior Art

Hacker, in the section cited by the Examiner, teaches that a patient can access his or her medical data via a standard Web browser and that access can be controlled, but does not teach or suggest that the medical data includes a patient sourced medical data portion. (Hacker, col. 8, lines 46-55) There is no description to suggest that access to the medical data of Hacker is read-only access of a medical record created by a healthcare provider. Goldenberg does not cure this deficiency.

Segal also does not cure this deficiency. As recognized by the Examiner, Segal teaches a computer-implemented personal health record database holding patient sourced medical data. However, Applicants disagree that Segal teaches or suggest a Web-portal configured to control access to both of the clinical medical record database and the personal health record database. Further, Segal recites personal health record databases that are modifiable by the patient and not clinical medical records. (Segal, [0014]). Segal states that these sites all provide "patient ownership and control of the medical records" such that none of these references can be considered to be clinical medical records. (Segal, [0014]).

None of Hacker, Goldenberg, or Segal teaches or suggests two databases including a clinical medical record that features write access by a healthcare provider and not the patient and a personal health record including patient-sourced medical data. Further, none of the references teaches such a system and method where access to the clinical medical record portion is read only but still requires that the user be registered and access is only allowed after associating the registration information with the clinical medical record. Additionally, none of the references teaches such a system and method where access to both databases is through a single web portal.

Further, Applicants respectfully disagree with the Examiner's assertion that Goldenberg teaches a mode in which the patient is provided with access to the patient-sourced medical data. Goldenberg, as cited by the Examiner, only teaches levels of access required to access clinical articles and is not related to accessing medical records. Goldenberg does not appear to have any teaching of stored patient sourced medical data as opposed to clinical medical data, let alone providing such in a first mode. Submitting symptoms does not teach or suggest controlled access to patient sourced data. Goldenberg, in the sections cited by the Examiner, teaches a health information system allowing a user to submit queries and receive information based on their level of authorization.

Claims 72-76 depend from claim 71 and include all of the limitations thereof. Claim 78-82 depend from claim 77 and include all the limitations thereof. Accordingly, these claims are allowable for at least the same reasons as the independent claims from which they depend. Entry of the amendments and reconsideration and allowance of

claims 71-82 is respectfully requested.

Claims 83-88

Claim 83 has also been amended to recite limitations similar to claims 71 and 77 and should be allowable for at least the same reasons.

Additionally, claim 83 recites a computer-implemented “web portal accepting patient-sourced medical data from the patient in a first mode in which the patient is provided with access to the patient-sourced medical data by providing a user name and password but not provided with permission to make appointments and request services of the healthcare providers when the patient is not fully identified.” None of Hacker, Goldenberg, or Segal describes a web portal accepting patient sourced medical data but denying access to appointment scheduling and service requests.

The Examiner states that “Hacker teaches a system for scheduling an appointment via email; because Hackers invention requires registered user to submit an identifier and password, it is inherent that a registered user can schedule appointments ...” Applicants respectfully assert that requiring registration before allowing any access to a system does not teach or suggest allowing access to information but not scheduling in a first mode and access to both information and scheduling in a second mode.

Claim 83 further recites that the web portal includes “an option to convert to a second mode wherein the patient-sourced data is incorporated into the clinical medical record when the patient has registered and a computer implemented link between the user name and password and the clinical medical record has been created and thus is fully

identified.” The Examiner does not appear to address this limitation in the present Office Action and none of the references cited by the Examiner teach or suggest this conversion limitation. Accordingly, none of Hacker, Goldenberg, or Segal teaches or suggests all of the limitations of claim 83. Reconsideration and withdrawal of the rejection of claim 83 is respectfully requested.

Claims 84-88 depend from claim 83 and include all of the limitations thereof. These claims are believed to be allowable for at least the same reasons as claim 83. Entry of the amendments and reconsideration of new claims 83-88 is respectfully requested.

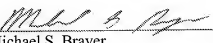
Conclusion

Applicants believe that the present application is in a condition for allowance. Applicants appreciate consideration of the above remarks and invites that the Examiner to telephone the undersigned in the event a telephone discussion would be helpful in advancing the prosecution of the present application. The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 50-1170.

Respectfully submitted,

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